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April 21, 1997

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Federal Communications Commission
Office of Secretary

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WRITER'S DIRECT DIAL

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William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20036

Re: **Ex Parte Presentation in the Matter of Implementation of Section 309(j) of the Communications Act - Competitive Bidding Narrowband PCS (PP Docket No. 93-253) and Amendment of the Commission's Rules to Establish New Narrowband Personal Communications Services (GEN Docket No. 90-314; ET Docket No. 92-100)**

Dear Mr. Caton:

Enclosed, is two copies of the above-referenced ex parte letter, which was delivered to Acting Chief, Wireless Telecommunications Bureau.

Kindly contact the undersigned, should there be any questions in regard to this filing.

Very truly yours,


Terry J. Romine

Enclosures

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Daniel Phythyon, Acting Chief
Wireless Telecommunications Bureau
Federal Communications Commission
2025 M Street, N.W., Room 5002
Washington, D.C. 20554

Re: **Ex Parte Presentation in the Matter of Implementation of Section 309(j) of the Communications Act - Competitive Bidding Narrowband PCS (PP Docket No. 93-253) and Amendment of the Commission's Rules to Establish New Narrowband Personal Communications Services (GEN Docket No. 90-314; ET Docket No. 92-100)**

Dear Mr. Phythyon:

CONXUS Communications, Inc. ("CONXUS"), by its counsel, respectfully submits this ex parte presentation in connection with the Further Notice of Proposed Rulemaking ("Further Notice") in the above-referenced proceeding. CONXUS holds authorizations for five regional 50/50 kHz paired channels in the narrowband Personal Communications Services ("PCS") and received certain financing benefits as a qualified minority/woman-owned small business ("Designated Entity"). See 47 C.F.R. Section 24.309(b)(1) and (b)(2). CONXUS previously filed comments and has made previous ex parte presentations in this proceeding.

CONXUS asks that the Commission consider modifying the narrowband PCS rules governing installment payments to provide that both existing licensees and future licenses may pay their installment payments on an annual rather than quarterly basis.¹

¹ See Order dated March 31, 1997 (DA 97-149) (The Chief, Wireless Telecommunications Bureau suspended the March 31, 1997 deadline for installment payments for all broadband PCS licensees in order to allow the Commission to

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Consistent with its previous presentations in this matter, CONXUS contends that the rules governing competitive bidding and financial preferences provided as part of the competitive bidding process for narrowband and broadband PCS licenses should be the same.²³

Contrary to the Commission's initial assessment regarding the capital necessary to buildout a narrowband PCS system, CONXUS has found that to successfully buildout its system and pay for operational expenses during the initial phase, the capital needed will be similar to costs for building out broadband PCS systems in several Metropolitan Trading Areas ("MTA"). Accordingly, CONXUS contends that the Commission should adopt such rules to accord the same treatment to narrowband PCS licensees as it provides to broadband PCS licensees, particularly the rules affecting Designated Entities.

The capitalization necessary to buildout CONXUS' nationwide network is similar to the cost of a buildout of a regional broadband PCS system -- approximately 300 million dollars. CONXUS in its initial funding for its buildout found immense interest in investing in the company. Since that time, with the significant increase in the number of new entrepreneurial small business licensees seeking funding from the investment community, the outlook is not so favorable. Like many other start-up wireless ventures, CONXUS has pulled a recent debt offering because of the lack of response to the offering.

Additionally, CONXUS' offerings have been adversely affected by the incentives provided in the broadband PCS rules and other service rules which permit Designated

consider adoption of annual installment payments rather than the existing quarterly payments for broadband PCS licensees.)

² Similarly, the Commission has initiated a rule making proceeding in which it proposed to standardize the competitive bidding rules for all services prospectively.

³ The Commission has determined that narrowband PCS and broadband PCS compete against each other. See Second Report and Order, GN Docket No. 93-252, 9 FCC Rcd 1411 (1994); Erratum, 9 FCC Rcd 2156 (1994) (CMRS Second Report and Order). Because the two services compete against each other, the regulatory rules governing the services should be similar. See Omnibus Budget Reconciliation Act of 1993, Pub.L. No. 103-66, Title VI, § 6002(b), 108 Stat. 312, 392 (1993) ("Budget Act"), *codified at* 47 U.S.C. § 332.


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Entities more flexibility in obtaining investment money. The disparity in the regulatory treatment further places CONXUS, and similarly situated narrowband PCS licensees, at a disadvantage in obtaining equity and debt funding from the traditional investment institutions because of the more restrictive narrowband PCS rules. CONXUS, therefore, urges the Commission to amend and adopt narrowband PCS rules governing the competitive bidding process in a manner which accords to the narrowband PCS Designated Entity licensees the same treatment as broadband PCS Designated Entity/Entrepreneurial licensees.

CONXUS requests that the Commission take action in the pending narrowband PCS proceeding consistent with the recommendation set forth above.

Respectfully submitted,

CONXUS Communications, Inc.

By: 
Gerald S. McGowan
Terry J. Romine

Its Attorneys